

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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Docket No. 5:21-cv-457

RICHARD CONVERSE and STEPHANIE
CONVERSE,

Plaintiff,

**DEFENDANT’S RESPONSE TO
PLAINTIFFS’ STATEMENT OF
MATERIAL FACTS**

-against-

STATE FARM FIRE AND CASUALTY
COMPANY,

Defendant.

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State Farm Fire and Casualty Company (“State Farm”) submits this response to Plaintiffs’

Statement of Material Facts:¹

1. Plaintiffs are co-owners of the Property located at 442 Flower Avenue East, Watertown, New York 13601 (hereinafter the “Property”), and they hold title as “joint tenants with rights of survivorship” Exhibit 1.

RESPONSE: Disputed. *See* ECF Doc. No. 38-9 (Richard Converse Dep. Tr.), at 52:16-54:7 (Plaintiffs transferred there ownership interest in the property to SJ Converse Realty LLC by warranty deed dated February 21, 2021).

2. There was a fire on the Property on December 8, 2019, *See* Declarations of Stephanie Converse and Richard Converse, also Exhibits 8 and 9.

RESPONSE: Undisputed that there was a fire on December 8, 2019.

3. Plaintiffs’ interests in the Property were insured by an insurance policy through Defendant, as set forth in Exhibit 2.

¹ State Farm has separately moved for summary judgment seeking dismissal of Plaintiffs’ Complaint in its entirety and separately filed a Rule 56.1 Statement of Material facts in support of its affirmative motion. *See* ECF Doc. No. 38-25.

RESPONSE: Undisputed that State Farm issued a homeowners policy, policy number 32-BS-T435-1, for the period of October 31, 2019 to October 31, 2020, for the Property located at 442 Flower Avenue East, Watertown, New York 13601, which policy listed Stephanie J. Converse as the named insured and Richard Converse as an additional insured.

4. Stephanie Converse did not commit arson and she did not pay anyone to commit arson by setting the fire on the Property. See Declarations of Stephanie Converse, Deposition Transcript of Julio Loarca, Exhibit 7, page 68, Exhibits 8 and 9.

RESPONSE: Disputed. The Fire Report states the following: “10/13/20 – The Cause of the fire was changed to reflect the findings of the investigation team. The original fire report had the fire listed as unintentional with a cigarette as the ignition source. While this cannot be ruled out it also cannot be confirmed. Our office was provided with evidence that brings in other possible scenarios.” *See* ECF Doc. No. 38-13 (amended fire report). The cause of the fire was changed to “undetermined after investigation.” *Id.* Arson has not been ruled out as a cause of the fire, nor has Stephanie Converse been cleared of any involvement based on her letter of November 8, 2019 requesting that her friend set the property on fire in exchange for \$5,000 in insurance proceeds. *See* ECF Doc. No. 38-20 (November 8th letter).

5. The fire on the Property on December 8, 2019 was caused by a tenant residing in the Property leaving a cigarette in the trash in the basement. See Fire Report Exhibit 8.

RESPONSE: Disputed. The Fire Report states the following: “10/13/20 – The Cause of the fire was changed to reflect the findings of the investigation team. The original fire report had the fire listed as unintentional with a cigarette as the ignition source. While this cannot be ruled out it also cannot be confirmed. Our office was provided with evidence that brings in other possible scenarios.” *See* ECF Doc. No.

38-13 (amended fire report). The cause of the fire was changed to “undetermined after investigation.” *Id.* Arson has not been ruled out as a cause of the fire, nor has Stephanie Converse been cleared of any involvement based on her letter of November 8, 2019 requesting that her friend set the property on fire in exchange for \$5,000 in insurance proceeds. *See* ECF Doc. No. 38-20 (November 8th letter).

Dated: December 9, 2022

RIVKIN RADLER LLP

By: /s/ *Michael P. Welch*

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